

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	David Ovard, et al	Examiner:	LANA LE
Serial No.:	10/081,256	Group Art Unit:	2614
Filed:	February 19, 2002	Confirmation:	2878
Title:	WIRELESS COMMUNICATION SYSTEMS, INTERROGATORS AND METHODS OF COMMUNICATION WITHIN A WIRELESS COMMUNICATION SYSTEM		

REPLY BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
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Sir/Madam:

This Reply Brief is being filed in response to the Examiner's Answer mailed on May 7, 2008, and specifically addresses the new grounds of rejection raised in Section 9 of the Examiner's Answer.

STATUS OF CLAIMS

Claims 1-22, 24-41 and 44-57 are pending and stand rejected. Claims 23 and 42-43 are canceled. The rejections for claims 1-22, 24-41 and 44-57 are appealed.

GROUND OF REJECTIONS TO BE REVIEWED ON APPEAL

- A. The 102 rejection of claims 1-3, 9, 40, 44, 45, and 50-56 over MacLellan (US 5,649,296).
- B. The 103 rejection of claims 8, 10-12, 31-33, 36-39, 46, 47, 49 and 57 over the combination of MacLellan with Reis (US 5,640,151).
- C. The 103 rejection of claims 10-12, 16, 17, and 46 over the combination of MacLellan and Reis.
- D. The 103 rejection of claims 18-19, 21-22 and 47 over the combination of MacLellan and Reis.
- E. The 102 rejection of claims 24-26, 29-30, 41 and 48 over MacLellan.
- F. The 103 rejection of claims 31-33, 36, 37 and 49 over the combination of MacLellan and Reis.
- G. The 103 rejection of claims 4 and 27 over the combination of MacLellan and Yamamoto (US 5,361,395).
- H. The 103 rejection 13 and 34 over the combination of MacLellan, Reis and Yamamoto.
- I. The 103 rejection of claim 7 over MacLellan.
- J. The 103 rejection of claim 16 over the combination of MacLellan and Reis.
- K. The 103 rejection of claims 8 and 17 over the combination of MacLellan and Reis.
- L. The 102 rejection of claim 51 over MacLellan.
- M. The 102 rejection of claim 53 over MacLellan.
- N. The 102 rejection of claims 54-55 over MacLellan.
- O. The 102 rejection of claim 55 over MacLellan.
- P. The 102 rejection of claim 56 over MacLellan.

ARGUMENTS

The Examiner's Answer mailed on May 7, 2008 presented new grounds for rejections for claims 4, 7, 13, 16, 27 and 34. Applicant respectfully disagrees.

Claims 4, 7, 13, 16, 27 and 34 are dependent claims of claims 1, 10, 24 and 31, which were rejected based on MacLellan, or a combination of MacLellan and Reis.

In the Examiner's Answer mailed on May 7, 2008, the Examiner argued that, given the broadest reasonable interpretation, one or more circuit components of MacLellan could be considered, individually or as a whole, as "housing". Instead of claiming a circuitry as "housing", the pending claims recite a housing including internal circuitry as defined in the description. The specification discusses an interrogator housing with internal circuitry which clearly indicates that the "circuitry" is within the housing structure and not serving as the housing. For example, Applicant's specification states:

"Referring to Fig. 5, one embodiment of interrogator housing 14 and the internal circuitry therein is illustrated". (Page 19, lines 10-11, Applicant's specification).

Thus, in light of the specification, the term "housing" should be construed to require a housing component and may further include internal circuitry housed within the housing component. It is incorrect to assert that the internal circuitry is the "housing", as argued by the Examiner.

Furthermore, Fig. 5 of Applicant's specification clearly shows a housing structure 14 around the internal circuitry. In the Examiner's Answer, the Examiner has to resort to actually adding the housing structure by sketching the housing which does not exist in the prior art. Adding elements to the references that are not disclosed in the references is improper. MacLellan does not disclose a housing structure to contain the internal circuit elements that were considered by the Examiner as corresponding to the claimed internal circuitry housed within the claimed housing structure.

Therefore, MacLellan does not disclose the housing structure which was relied upon for the rejection of the based claims of claims 4, 7, 13, 16, 27 and 34. Since Reis and Yamamoto do not cure the deficiency in MacLellan, claims 4, 7, 13, 16, 27 and 34 are patentable over the cited references.

Further, in the base claims of claims 4, 7, 13, 16, 27 and 34, the communication stations are to be remote to the housing. The claimed communication circuitry, as defined in Applicant's description, are outside the housing. For example, Applicant's specification states

“In the described embodiment, communication circuits 106 are located outside of interrogator housing 14” (Page 10, lines 3-4, Applicant's specification; see, also page 24, line 20 – page 25, line 5, Applicant's specification).

Since the communication stations receive communications from the housing via the communication circuits which are outside the housing, the communication stations are therefore also outside the housing. MacLellan and other recited references do not show such housing arrangements as recited in the base claims of claims 4, 7, 13, 16, 27 and 34. Thus, claims 4, 7, 13, 16, 27 and 34 are patentable over the cited references.

Claim 4 further recites “the adjustment circuitry is configured to output the return link communication signal at a substantially constant level”, where its base claim 3 recites “the housing includes adjustment circuitry”. Thus, even if MacLellan were modified as suggested in the new ground of rejection to include the adjustment circuitry of Yamamoto, there is no indication in the cited references that the adjustment circuitry would be located within the housing that is remote to the communication station. Thus, claim 4 is patentable over the cited references.

Similarly, claim 13 recites “the adjustment circuitry is configured to output the return link communication signals at a substantially constant level”, where its base claim 12 recites “the housing includes adjustment circuitry”. Thus, even if MacLellan were modified as suggested in the new ground of rejection to include the adjustment circuitry of Yamamoto, there is no indication in the cited references that the adjustment circuitry would be located within the

housing that is remote to the communication station. Thus, claim 13 is patentable over the cited references.

Claim 27 further recites “the adjusting provides a return link communication signal having a substantially constant level”, where its base claim 26 recites “adjusting ... after receiving the return link communication signal” and its base claim 24 recites “receiving the return link communication signal ... within a housing of the interrogator remotely located from the communication station”. Thus, “the adjusting” to provide “a return link communication signal having a substantially constant level” is after the “the return link communication signal” is received within “a housing of the interrogator remotely located from the communication station”. Thus, even if MacLellan were modified as suggested in the new ground of rejection to include the adjustment circuitry of Yamamoto, there is no indication in the cited references that the adjusting is performed in the specific way of after receiving “the return link communication signal” within “a housing of the interrogator remotely located from the communication station”. Thus, claim 24 is patentable over the cited references.

Similarly, claim 34 further recites “the adjusting provides a return link communication signal having a substantially constant level”, where its base claim 33 recites “adjusting ... after the receiving the return link communication signals” and its base claim 31 recites “receiving the return link communication signals within the housing”. In claim 31, “a plurality of communication stations” are “remotely located from the housing”. Thus, “the adjusting” to provide “a return link communication signal having a substantially constant level” is performed after the “the return link communication signal” is received within “a housing” remotely located from a plurality of communication stations”. Thus, even if MacLellan were modified as suggested in the new ground of rejection to include the adjustment circuitry of Yamamoto, there is no indication in the cited references that the adjusting is performed in the specific way of after receiving “the return link communication signal” within “a housing” remotely located from “a plurality of communication stations”. Thus, claim 34 is patentable over the cited references.

Claim 7 further recites “the communication circuitry includes a coaxial RF cable”. The Examiner took the position that “it is notoriously old and well known in the art to replace a cable with an RF coaxial cable”. However, in the absence of MacLellan teaching the use of a cable to

connect to an external housing, one skilled in the art would replace a wire within the housing of a traditional interrogator with an RF coaxial cable. It appears that the Examiner considered “housing” as pure circuit elements in rejecting the base claim, because MacLellan does not disclose a housing structure, and then using the traditional “housing” concept to introduce “an RF coaxial cable” in the dependent claim. Such switching of concepts is improper in rejecting the dependent claims.

Similarly, claim 16 recites “the communication circuitry includes a coaxial RF cable”, which is not obvious in view of MacLellan failing to teach a separate, remote housing structure for a portion of the internal circuits.

The Examiner asserted that claims 5-6, 14-15, 20, 28 and 35 are not under review on appeal. Applicant respectfully disagrees. Claims 5-6, 14-15, 20, 28 and 35 are dependent claims which further recite additional features. Jandrell (US 5,526,357) was relied upon only for the additional features recited in claims 5-6, 14-15, 20, 28 and 35, which incorporate the limitations of their base claims through dependency. Thus, claims 5-6, 14-15, 20, 28 and 35 are patentable over the combinations of MacLellan, Reis and Jandrell at least for the reasons discussed for their base claims.

Respectfully submitted,

Date: July 7, 2008

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